



# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,174	11/25/2003	Tom Walter Yourk		1173

39233 7590 02/25/2005

TOM YOURK  
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EXAMINER

CEGIELNIK, URSZULA M

ART UNIT PAPER NUMBER

3714

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notice of Non-Compliant  
Amendment (37 CFR 1.121)**

Application No.

10/707,174

Examiner

Urszula M. Cegielnik

Applicant(s)

YOURK, TOM WALTER

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

The amendment document filed on 09 February 2005 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☒ 1. Amendments to the specification:
  - ☒ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_.
- ☒ 2. Abstract:
  - ☒ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_.
- ☒ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☒ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☐ E. Other: \_\_\_\_\_.

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf>.

**TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:**

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted within the time period set forth in the final Office action.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

**Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

## **DETAILED ACTION**

### ***Response to Amendment***

The reply filed on 09 February 2005 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): See ***Notice of Non-Compliant Amendment (37 CFR 1.121)***.

Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

### **Manner Making Amendments**

#### ***Specification***

Applicant can amend the specification and drawings by sending the Office a signed letter directing the office to make the specified alterations. Amendments are governed by 37 CFR 1.121. Amendments to the specification may be made by either adding, deleting or replacing a paragraph, by replacing a section, or by a substitute specification. To delete, replace, or at a paragraph the following must be included:

(i) An instruction, which unambiguously identifies the location, to delete one or more paragraphs of the specification, replace a paragraph with one or more replacement paragraphs, or at one or more paragraphs;

(ii) the full text of any replacement paragraph with markings to show all the changes relative to the previous version of the paragraph. The text of any added

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subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by ~~strikethrough~~ except to that double brackets placed before and after that deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by placing within double brackets if ~~strikethrough~~ cannot be easily perceived;

(iii) the full text of any added paragraphs without any underlining; and;

(iv) the text of the paragraph to be deleted must not be presented with ~~strikethrough~~ or placed within double brackets. The obstruction to delete may identify a paragraph by its paragraph number or include the few words from the beginning, and end, of the paragraph, if needed for paragraph identification purposes.

To make an amendment by substitute specification the following must be provided:

(i) an instruction to replace the specification; and

(ii) a substitute specification in compliance with *37 CFR 1.125(b)* and *(c)*.

Applicant is reminded of the proper content of an abstract of the disclosure.

### ***Abstract***

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly

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those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- 1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

### ***Claims***

Amendments to a claim must be made by rewriting the entire claim with all changes (e.g. additions and deletions) as indicated in this section, except when the claim is being canceled. Each amendment document that includes a change to an existing claim, cancellation of an existing claim, or addition of a new claim, must include a complete listing of all claims ever presented, including the text of all pending and withdrawn claims, in the application. The claim listing, including the text of the claims, in the amendment document will serve to replace all prior versions of the claims, in the application. In the claim listing, the status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently Amended), (Withdrawn), (Previously presented), (New), and (Not

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entered). All of the claims presented in a claim listing shall be presented in ascending numerical order. Consecutive claims having the same status of "canceled" or "not entered" may be aggregated into one statement (e.g. Claims 1-5 (canceled)).

The claim listing shall commence on a separate sheet of the amendment document and the sheet(s) that contain the text of any part of the claims shall not contain any other part of the amendment. All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of "currently amended", and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by ~~striketrough~~ except that double brackets placed before and after the deleted characters may be used to show deletion of **five or fewer consecutive characters**. The text of any deleted subject matter must be shown by being placed within double brackets if strikethrough cannot be easily perceived. Only claims having the status of "currently amended", or "withdrawn" if also being amended, shall include markings. If a withdrawn claim is currently amended, its status in the claim listing may be identified as "withdrawn currently amended". The text of all pending claims not being currently amended shall be presented in the claim listing in clean version, i.e., without any markings in the presentation of text. The presentation of a clean version of any claim having the status "original", "withdrawn", or "previously presented" will constitute an assertion that it has not been changed relative to the immediate prior version, except to omit markings that may have been present in the

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immediate prior version of the claims of the status of "withdrawn" or "previously presented". Any claim added by amendment must be indicated with the status of "new" and presented in clean version, i.e., without any underlining.

***Information on How to Properly Respond to a Non-Final Action***

if applicant wishes to continue to prosecute this patent application, applicant must reply in writing. It would be of great assistance to the Office if all incoming papers pertaining to a filed application carried the following items:

1. Serial number (checked for accuracy).
2. Group art unit number (copied from filing receipt or most recent Office Action).
3. Filing date.
4. Name of the examiner who prepared the most recent Office Action.
5. Title of invention.
6. Name of Applicant(s).

Applicant's reply should identify the Office Action that the amendment is in response to by its mailing date or paper number, and must specifically request further examination and reconsideration. Applicant or applicant's registered representative must sign the reply.

In a reply to an Office Action, applicant can amend the specification, drawings, and claims to overcome objections and rejections as well as argue against any position taken by the examiner. Applicant's arguments and other pertinent comments should appear under the heading "REMARKS". In applicant's remarks, applicant must point out to each error, if any, Applicant believes the Examiner has made in the current Office Action and/or how any amendments applicant has made to the specification, drawings,

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and claims overcome the examiner's objections and rejections. Applicant must respond to each and every ground of rejection and objection raised in the current Office Action.

To overcome the objection and rejection for lack of an enabling disclosure, applicant can argue that the holding of non-enabling by the examiner is an error. To be persuasive, however, such an argument must point out where, in the specification as originally filed, the specification provides the necessary detailed disclosure for supporting the claimed invention. Alternatively, the applicant could rebut the examiner's holding of non-enabling by submitting evidence that the disclosure as it now stands is sufficient to enable an artisan, of ordinary skill, to make and use the invention. Such evidence should take the form of patents or literature published before the filing date of Applicant's application. Alternatively, the evidence could take the form of one or more affidavits by the skilled in the art, stating facts, and on the basis of their knowledge and skill, establish that, on or before the filing date of Applicant's application, one of ordinary skill in the art could make and use the claimed invention from reading the specification without undue experimentation.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 571-272-4420. The examiner can normally be reached on Monday through Friday, from 5:45AM - 2:15PM.

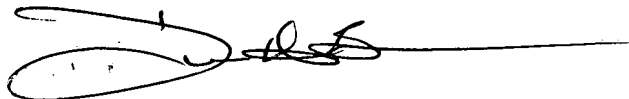
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H. Banks can be reached on 571-272-4419.



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**The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 for both regular and After Final communications.**

Urszula M. Cegielnik  
Assistant Examiner  
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A handwritten signature in black ink, appearing to read 'D. Banks', followed by a long horizontal line.

**DERRIS H. BANKS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700**